

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

GEORGIA RICHARDSON

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_

(c) Attorney's (Firm Name, Address, Telephone Number and Email Address)

Craig Thor Kimmel, Esquire  
 Kimmel & Silverman, P.C.  
 30 E. Butler Pike  
 Ambler, PA 19002  
 (215) 540-8888

**DEFENDANTS**

NCO FINANCIAL SYSTEMS, INC.

County of Residence of First Listed Defendant \_\_\_\_\_

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF	PTF	DEF	
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<b>PERSONAL INJURY</b>	<b>PERSONAL INJURY</b>	<b>PROPERTY RIGHTS</b>	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<b>SOCIAL SECURITY</b>	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 500 Selective Service	<input type="checkbox"/> 810 Other Statutory Actions
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage	<input type="checkbox"/> 850 Securities/Commodities/ Exchange	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 390 Other Personal Injury	<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 892 Economic Stabilization Act	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 894 Energy Allocation Act	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 420 Agriculture	<input type="checkbox"/> 896 SSID Title XVI	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<b>REAL PROPERTY</b>	<b>CIVIL RIGHTS</b>	<b>PRISONER PETITIONS</b>	<b>FEDERAL TAX SUITS</b>	<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<b>Habeas Corpus:</b>	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General		
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty		
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other		
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 550 Civil Rights		
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition		
		<b>IMMIGRATION</b>		
		<input type="checkbox"/> 462 Naturalization Application		
		<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee		
		<input type="checkbox"/> 465 Other Immigration Actions		

**V. ORIGIN** (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7
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Appeal to District Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. SECTION 1692

**VI. CAUSE OF ACTION**

Brief description of cause:  
 Fair Debt Collection Practices Act

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:  
 JURY DEMAND:  Yes  No

**VIII. RELATED CASE(S)**

(See instructions):

JUDGE

DOCKET NUMBER

Explanation:

DATE

02/14/2013

SIGNATURE OF ATTORNEY OF RECORD

**CASE MANAGEMENT TRACK DESIGNATION FORM**

GEORGIA RICHARDSON : CIVIL ACTION  
v. : NO.  
NCO FINANCIAL SYSTEMS, INC. :  
:

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

(a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )

(b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )

(c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (X)

(d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )

(e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )

(f) Standard Management – Cases that do not fall into any one of the other tracks. ( )

<u>02/14/2013</u> Date	<u>Craig Thor Kimmel</u> Attorney-at-law	<u>Plaintiff, Georgia Richardson</u> Attorney for
<u>215-540-8888</u> Telephone	<u>877-788-2864</u> FAX Number	<u>kimmel@creditlaw.com</u> E-Mail Address

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 10861 Snowdown Avenue, Oakland, CA 94605

Address of Defendant: 507 Prudential Road, Horsham, PA 10944

Place of Accident, Incident or Transaction: \_\_\_\_\_  
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes  No

Does this case involve multidistrict litigation possibilities?

Yes  No

*RELATED CASE, IF ANY:*

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  
Yes  No
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?  
Yes  No
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?  
Yes  No
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?  
Yes  No

**CIVIL: (Place ✓ in ONE CATEGORY ONLY)**

**A. Federal Question Cases:**

1.  Indemnity Contract, Marine Contract, and All Other Contracts
2.  FELA
3.  Jones Act-Personal Injury
4.  Antitrust
5.  Patent
6.  Labor-Management Relations
7.  Civil Rights
8.  Habeas Corpus
9.  Securities Act(s) Cases
10.  Social Security Review Cases
11.  All other Federal Question Cases  
(Please specify) 15 U.S.C. § 1692

**B. Diversity Jurisdiction Cases:**

1.  Insurance Contract and Other Contracts
2.  Airplane Personal Injury
3.  Assault, Defamation
4.  Marine Personal Injury
5.  Motor Vehicle Personal Injury
6.  Other Personal Injury (Please specify)  
(Please specify) \_\_\_\_\_
7.  Products Liability
8.  Products Liability — Asbestos
9.  All other Diversity Cases

**ARBITRATION CERTIFICATION**

(Check Appropriate Category)

I, Craig Thor Kimmel, counsel of record do hereby certify:

Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

Relief other than monetary damages is sought.

DATE: 02/14/2013

Attorney-at-Law

57100

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 02/14/2013

Attorney-at-Law

57100

Attorney I.D.#

UNITED STATES DISTRICT COURT  
FOR THE  
EASTERN DISTRICT OF PENNSYLVANIA

GEORGIA RICHARDSON, )  
Plaintiff )  
v. )  
NCO FINANCIAL SYSTEMS, INC., )  
Defendant )  
Case No.: )  
COMPLAINT AND DEMAND FOR  
JURY TRIAL  
(Unlawful Debt Collection Practices)

## COMPLAINT

GEORGIA RICHARDSON (“Plaintiff”), by and through her attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against NCO FINANCIAL SYSTEMS, INC. (“Defendant”):

## INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. §1692 *et seq.* ("FDCPA").

## **JURISDICTION AND VENUE**

2. Jurisdiction of this court arises pursuant to 15 U.S.C. §1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28 U.S.C. §1331 grants this court original jurisdiction of all civil actions arising under the laws of the United States.

3. Defendant has its corporate headquarters in the Commonwealth of Pennsylvania and as such, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. §1391(b)(1).

## PARTIES

5. Plaintiff is a natural person residing in Oakland, California 94605.

6. Plaintiff is a person granted a cause of action under the FDCPA. See 15 U.S.C. §(a) and Wenrich v. Cole, 2000 U.S. Dist LEXIS 18687 (E.D. Pa. Dec. 22, 2000).

7. Defendant is a national debt collection company with its corporate headquarters located at 507 Prudential Road, Horsham, PA 19044.

8. Defendant is a “debt collector” as that term is defined by 15 U.S.C. § 1692a(6), and repeatedly contacted Plaintiff in an attempt to collect a debt.

9. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

## FACTUAL ALLEGATIONS

10. At all pertinent times hereto, Defendant was hired to collect a consumer debt of another person and repeatedly contacted Plaintiff in its attempts to collect a debt of another person.

11. Upon information and belief, the debt arose out of transactions that were primarily for personal, family, or household purposes.

12. Plaintiff does not owe the debt that Defendant was attempting to collect.

13. Plaintiff did not consent to the placement of collection calls to her home telephone by Defendant.

14. Further, Plaintiff never expressly consented to the placement of telephone calls to her home telephone by the use of an automatic telephone dialing system or artificial voice prior to Defendant's placement of the calls.

15. Beginning in or before February 2012, and continuing through November 2012,

1 Defendant continuously and repeatedly contacted Plaintiff on her home telephone in its attempts  
2 to collect a debt of her estranged daughter, Albertha Richardson.

3 16. Plaintiff knew it was Defendant calling because she would answer calls and an  
4 automated message would announce that the caller was "NCO Financial Systems."

5 17. Defendant contacted Plaintiff frequently, increasing the volume of its collections  
6 so that in November 2012, Plaintiff received one (1) to two (2) collection calls each day.

7 18. In most instances where Plaintiff answered the telephone, Defendant's pre-  
8 recorded automated message was heard to say that NCO Financial was calling to collect the debt  
9 of another person, specifically Albertha Richardson. There was no option to speak with a live  
10 person. The option to speak with a live person was necessary to notify Defendant that it was  
11 calling a third party.

13 19. Plaintiff has had no communication with her estranged daughter for over thirty  
14 (30) years.

15 20. On one or two occasions, Plaintiff was able to speak with a collector, and advised  
16 that her daughter has not lived with her for over thirty (30) years and to remove her name and  
17 number from its databases. In response, Defendant's collector claimed that a lawsuit had been  
18 filed against her daughter; however upon information and belief, this was a false and/or  
19 deceptive statement intended to cause Plaintiff to make payment for her daughter.

20 21. Instead of updating its records and removing her name from the call list,  
21 Defendant continued to contact Plaintiff regarding the debt of another person.

23 22. Upon information and belief, Defendant lacked procedures to ensure that third  
24 party calls ceased, or did not value high enough the need to comply with such demands, as  
25 evidenced by the fact that it was advised on multiple occasions why its calls were misdirect and

1 unwanted.

2 23. Most recently, Defendant contacted Plaintiff on November 15, 2012.

3 24. Defendant failed to investigate or verify contact information prior to and after  
4 calling Plaintiff.

5 25. Defendant failed to update its records to avoid further harassment.

6 26. The repetitive calls to Plaintiff were disturbing, harassing, and an invasion of her  
7 privacy, as it was inconvenient for Plaintiff to receive repetitive debt collection calls on her  
8 home telephone for another person, especially after having informed Defendant that it was  
9 calling the wrong person and that she did not want to receive its collection calls.

10 **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT  
COUNT I**

11 27. Defendant's conduct, detailed in the preceding paragraphs, violated 15 U.S.C. §  
12 1692b(3).

13 a. Section 1692b(3) of the FDCPA prohibits a debt collector from  
14 communicating with any person other than a consumer more than once unless  
15 requested to do so by such person or unless the debt collector reasonably  
16 believes that the earlier response of such person is erroneous or incomplete  
17 and that such person now has correct or complete location information.

18 b. Here, Defendant violated §1692b(3) of the FDCPA by communicating with  
19 Plaintiff more than once about another person's debt, despite having been  
20 notified that it was calling the wrong person and that Plaintiff did not want to  
21 receive its collection calls.

## COUNT II

28. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C. §§1692c(a)(1).

- a. A debt collector violates §1692c(a)(1) of the FDCPA by communicating with the consumer at any unusual time or place or a time or place known or which should be known to be inconvenient to the consumer.
- b. Here, Defendant violated §1692c(a)(1) of the FDCPA by calling Plaintiff on her home phone about a debt of another person, which was an inconvenient place for Plaintiff to receive collection calls.

### COUNT III

29. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C. §§1692d and 1692d(5).

- a. Section 1692d of the FDCPA prohibits debt collectors from engaging in any conduct the natural consequences of which is to harass, oppress or abuse any person in connection with the collection of a debt.
- b. Section 1692d(5) of the FDCPA prohibits debt collectors from causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with the intent to annoy, abuse, or harass any person at the called number.
- c. Defendant violated §§1692d and 1692d(5) of the FDCPA when it called Plaintiff multiple times a day and on multiple days a week, with the intent to annoy, abuse and harass Plaintiff, as Plaintiff had informed Defendant on more than one occasion it was calling the wrong person.

**COUNT IV**

30. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C. §1692f.

- a. A debt collector violates §1692f of the FDCPA by using unfair or unconscionable means to collect or attempt to collect any debt.
- b. Here, Defendant violated §1692f of the FDCPA engaging in other unfair and unconscionable debt collection practices, including failing to update its records to stop calling Plaintiff, after being informed repeatedly that it was calling the wrong number.

WHEREFORE, Plaintiff, GEORGIA RICHARDSON, respectfully prays for a judgment as follows:

- a. All actual damages suffered pursuant to 15 U.S.C. §1692k(a)(1);
- b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant to 15 U.S.C. §1692k(a)(2)(A);
- c. All reasonable attorneys' fees, witness fees, court costs and other litigation costs incurred by Plaintiff pursuant to 15 U.S.C. §1693k(a)(3); and
- d. Any other relief deemed appropriate by this Honorable Court.

**DEMAND FOR JURY TRIAL**

PLEASE TAKE NOTICE that Plaintiff, GEORGIA RICHARDSON, demands a jury trial in this case.

1 RESPECTFULLY SUBMITTED,  
2  
3 Date: 02/14/13  
4  
5 By: \_\_\_\_\_  
6 Craig Thor Kimmel  
7 Attorney ID No. 57100  
8 Kimmel & Silverman, P.C.  
9 30 E. Butler Pike  
10 Ambler, PA 19002  
11 Phone: (215) 540-8888  
12 Fax: (877) 788-2864  
13 Email: [kimmel@creditlaw.com](mailto:kimmel@creditlaw.com)

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